

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN**

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OWEN W. BARNABY,  
Plaintiff

)  
)

Vs.

) Hon. Robert J. Jonker  
) Hon. Mag. Sally J. Berens

MICHIGAN STATE GOVERNMENT, ET, AL  
Defendants

) Case No. 1:22 -CV- 1146

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**RESPONSE TO, EXPEDITED CONSIDERATION REQUESTED**

**OPPOSITION TO, TOWNSHIP DEFENDANTS' REQUEST TO EXTEND TIME  
TO FILE RESPONSE TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

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Plaintiff's opposition to, Defendants' Niles Charter Township and Niles Charter Township Board of Trustees, (together the "Township Defendants") request an order extending the time to file a response to the Plaintiff's Second Amended Complaint by twenty-eight (28) days or until January 26, 2023. Plaintiff's concurrence with the Township Defendants further request expedited consideration of this request under L.R. 7.1(e), as the current deadline to respond is December 28, 2022.

Both, Plaintiff's opposition, and concurrence are demonstrated in his supporting Brief facts, legal authorities and argument contained in the Brief in Support.

Respectfully Submitted,

Dated: January 3, 2023,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.

## **CERTIFICATE OF SERVICE**

The undersigned states that on the 3rd day of January 2023, a duplicate original of Plaintiff's, Both, Plaintiff's opposition, and concurrence to "Defendants' Motions and Brief", was filed with the Clerk of the Court, using the ECF System, which will provide electric notice to the parties of record, and I have mailed by U.S. Postal Service the same to non-ECP participants.

Respectfully Submitted,

Dated: January 3, 2023,

\S/ Owen W. Barnaby  
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**PLAINTIFF’S OPPOSITION TO DEFENDANTS’ BRIEF IN SUPPORT OF  
TOWNSHIP DEFENDANTS’ REQUEST TO EXTEND TIME  
TO FILE RESPONSE TO PLAINTIFF’S SECOND AMENDED COMPLAINT**

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**STATEMENT OF FACTS**

First, Defendants Niles Charter Township and the Niles Charter Township Board of Trustees (together the “Township Defendants”) were properly served by Plaintiff with Summons and Complaint on December 8, 2022; but failed to file an answer to Plaintiff’s Complaint or a motion under Rule 12, on or before December 28, 2022, as required.

Secondly, some the Defendants below were served after “Township Defendants”, Defendant – Kendell S. Asbenson, Assistant Attorney General of state of Michigan and Defendant – Dana Nessel Attorney General of State of Michigan, Defendants, the Hon. Jennifer Granholm former Governor, the Hon. Rick Snyder former Governor, and the Hon. Gretchen the current Governor of the State of Michigan and Michigan Supreme Court, yet they all responded within the 21 days’ time limit. However, “Township Defendants” , failed to file an answer to Plaintiff’s Complaint or a motion under Rule 12.

**ARGUMENT**

The Defendants’ brief states, “Fed. R. Civ. P. 6 (b)(1)(A) states that a court may extend the time for a party to take action for good cause. A request for an extension of time made before expiration of the original deadline “may be ‘with or without motion or notice.’” Lujan v. Nat’l Wildlife Fed’n, 497 U.S. 871, 896 (1990).” Plaintiff contends that, based on Defendant’s Brief the were properly served on December 08, 2022, and their time 21 days’ time span ended on December 28, 2022, there request was on December 29, 2022, after the required time span.

Moreover, The United States District Court for the Eastern District of Michigan, that issued the Summons clearly states, that:

A lawsuit has been filed against you.

**“Within 21 days after service of this summons** on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney...”

“If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.”

Furthermore, this United States District Court for the Western District of Michigan, that issues Summons in Civil Actions states, that:

AO 440 (Rev. 01/09) Summons in a Civil Action - MIWD (Rev. 07/15)

“YOU ARE HEREBY SUMMONED and required to serve upon plaintiff, an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure within \_\_\_, days after service of this sum mons on you (not counting the day you received it). If you fail to respond, **judgment by default will be entered against you** for the relief demanded in the complaint. You must also file your answer or motion with the Court.”

Furthermore, Defendants “Township Defendants”, revealed their true motive why they did not make timely response Summons and Complaint. And, Defendants “Township Defendants”, revealed motive demonstrate that they do have a good cause for this Your Honorable Court to extend the deadline for them to respond to the Plaintiff’s Second Amended Complaint. “The Township Defendants further request that this Honorable Court find good cause to extend the deadline for them to respond to the Plaintiff’s Second Amended Complaint based on the Report and Recommendation from Magistrate Judge, the Honorable Sally J. Berens to dismiss the case based on issues of claim and issue preclusion.” It is clear that Defendants

“Township Defendants” failure to respond to the properly served Summons and Complaint is their hiding behind the Honorable Magistrate Judge Sally J. Berens, Report and Recommendation is not a good cause for this Your Honorable Court to extend the deadline for them to respond to the Plaintiff’s Second Amended Complaint. In truth and fact, the Defendants “Township Defendants”, is asking this Court to play the role of their defense Attorney not the neutral role as neutral Judge. As such this Your Honorable Court should enter default Judgment against them for their failure to respond to the Summons and Complaint.

It also confirmed the sentiment spoken by Defendant Attorney Holmstrom, Plaintiff called and spoke with Defendant Attorney Holmstrom as a Defendant in the case and about some of his prior clients; also, about Plaintiff’s intent to add to the Complaint. It was a “Surprise” to Plaintiff, when Defendant Attorney Holmstrom stated that, Plaintiff has no further need to contact him about the same two matters as the Magistrate Judge has filed a Report and Recommendation which Judge Robert J. Jonker who will basically just rubber stamp even if Plaintiff responded.

Plaintiff contends, that, in truth and in fact, each time, Plaintiff sought Courts for redressed, Defendants retaliated and intentionally misled Plaintiff, with intentionally false misrepresentation and omission of the material facts, they were obligated to disclose and with reckless disregards for the truth and concealment, and deterred Plaintiff from timely discovery in order to Amend-then-Complaint, that, they stole and defrauded Plaintiff of his real properties and is causing him, ‘Intentional infliction of emotional distress’, with ‘Forged Quit Claim Deed’, ‘Forged, Notice of Judgment of Foreclosure’, and ‘Forged Certificates of Forfeiture, Unauthorized Practice Law, on intentional false pretense of unpaid properties taxes and deterred

this Complaint issues of claim from redress and prevented Plaintiff from getting monetary relief he warrants.

Lastly, notwithstanding, that, the deadline to respond to Plaintiff's complaint was December 28, 2022; Plaintiff concurs with the Township Defendants for expediated consideration.

### **Relief Requesting**

For the reasons articulated in this Supporting Brief to Grant Defendants' Motion Expediated Consideration and **Deny**, Township Defendants' Request to Extend Time to File Response to Plaintiff's Second Amended Complaint and to enter default Judgment against them for their failure to file an answer to Plaintiff's Complaint or a motion under Rule 12.

Respectfully Submitted,

Dated: January 3, 2023,

\S/ Owen W. Barnaby  
Owen W. Barnaby, In Pro Se.



## **CERTIFICATE OF SERVICE**

The undersigned states that on the 3rd day of January 2023, a duplicate original of Plaintiff's, "Supporting Brief to Grant Defendants' Motion Expediated Consideration and Deny, Township Defendants' Request to Extend Time to File Response to Plaintiff's Second Amended Complaint" was filed with the Clerk of the Court, using the ECF System, which will provide electric notice to the parties of record, and I have mailed by U.S. Postal Service the same to non-ECP participants.

Respectfully Submitted,

Dated: January 3, 2023,

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